

PT 95-36
Tax Type: PROPERTY TAX
Issue: Grounds for Burying the Dead

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS

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GLEN OAK CEMETERY, INC      )   Docket No.(s)  93-16-1359  
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                             )   Applicant  
                             )   PI No.   15-20-201-006-0000  
                             )   (Cook County)  
v.                           )  
                             )  
                             )  
THE DEPARTMENT OF REVENUE   )   George H. Nafziger  
OF THE STATE OF ILLINOIS   )   Administrative Law Judge  
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RECOMMENDATION FOR DISPOSITION

APPEARANCES: Attorney Mark E. Leipold appeared on behalf of Glen Oak Cemetery, Inc.

SYNOPSIS: The hearing in this matter was held at 100 West Randolph Street, Chicago, Illinois, on April 26, 1995, to determine whether or not Cook County parcel No. 15-20-201-006-0000 and the building thereon, should be exempt from real estate tax for the 1993 assessment year.

Was the parcel here in issue used for burial purposes during the 1993 assessment year? Following the submission of all of the evidence and a review of the record, it is determined that the parcel here in issue and the building thereon, were used during the 1993 assessment year for burial purposes, namely the storage of accounting and historical cemetery records.

FINDINGS OF FACT: The position of the Illinois Department of Revenue (hereinafter referred to as the "Department") in this matter, namely that the parcel here in issue and the building thereon, did not qualify for exemption during the 1993 assessment year, was established by the admission in evidence of Department's Exhibits numbered 1 through 6B.

Ms. Marie Leshyn, controller and general manager of Glen Oak Cemetery,

Inc., (hereinafter referred to as the "Applicant"), was present, and testified on behalf of the Applicant.

On June 6, 1994, the Cook County Board of Appeals forwarded an Application for Property Tax Exemption To Board of Appeals, concerning the parcel here in issue for the 1993 assessment year, to the Department (Dept. Ex. No. 2). On November 3, 1994, the Department notified the Applicant that it was denying the exemption of this parcel for the 1993 assessment year (Dept. Ex. No. 3). On November 17, 1994, the Applicant's attorney requested a formal hearing in this matter (Dept. Ex. No. 4). The hearing held in this matter on April 26, 1995, was held pursuant to that request.

On March 20, 1972, the Applicant was incorporated, pursuant to "The Business Corporation Act" of Illinois, for the purpose of operating a cemetery. On July 1, 1972, the parcel here in issue, as well as other property, was conveyed to the Applicant.

During January 1985, the Applicant filed for a division of its cemetery lands to create what became the parcel here in issue, which measures 140 feet by 47 feet, and which is improved with a 1,000 square foot building, which had previously been the cemetery office for the Applicant. This parcel was created as a taxable parcel since a corporation affiliated with the Applicant, which was in the business of selling caskets to the public, began using the building on this parcel as its sales office for the casket business. During October 1990, the casket sales business was sold. During the 1993 assessment year, the building on this parcel was used by the Applicant, for the storage of accounting and historical records.

1. Based on the foregoing, I find that the Applicant owned the parcel here in issue during the 1993 assessment year.

2. I further find that during the 1993 assessment year, the Applicant used the building which occupies most of this parcel, for the storage of

accounting and historical cemetery records.

CONCLUSIONS OF LAW: Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

"The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes."

35 ILCS 205/19.3 (1992 State Bar Edition), exempts certain property from taxation as follows:

"All land used exclusively as graveyards or grounds for burying the dead."

Based on the foregoing, I conclude that the Applicant owned the parcel here in issue during the 1993 assessment year. I further conclude that during the 1993 assessment year, the Applicant used the building which occupies most of this parcel, for the storage of accounting and historical cemetery records.

It should be pointed out that these records were removed from this building before January 1, 1995, and that at the time of the hearing this building was essentially vacant and unused. I would therefore respectfully suggest that Cook County may want to consider placing this parcel back on the tax rolls for the 1995 assessment year. See *Antioch Missionary Baptist Church v. Rosewell*, 119 Ill.App.3d 981 (1st Dist. 1983).

I therefore recommend that Cook County parcel No. 15-20-201-006-0000 be exempt from real estate tax for the 1993 assessment year.

Respectfully Submitted,

George H. Nafziger
Administrative Law Judge